UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROBERT NOVAK, d/b/a Pets Warehouse and PetsWarehouse.com,

Plaintiff,

-v-

OVERTURE SERVICES, INC, GOOGLE, INC., INNOVATIVE MARKETING SOLUTIONS, INC., d/b/a KANOODLE.COM, NEEPS INC d/b/a THEFERRETSTORE.COM, JOHN HOLDEFEHR d/b/a JUDGE-FOR-YOURSELF.COM, BIOCHEMICS, INC d/b/a DOCTORDOG.COM,

Defendants.

GOOGLE INC.,

Counterclaimant,

-v-

ROBERT NOVAK, d/b/a Pets Warehouse and PetsWarehouse.com,

Counter-defendant.

No. CV 02 5164 (DRH) (JO)

STIPULATION AND [PROPOSED] ORDER

Plaintiff and Counter-defendant Robert Novak, d/b/a Pets Warehouse and PetsWarehouse.com ("Novak"), and Defendant and Counterclaimant Google Inc. ("Google"), hereby stipulate to the following:

1. On December 22, 2004, the Court received from Novak a Notice of Voluntary Dismissal, dismissing all claims in this action against Google;

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2. On February 16, 2005, the Court ordered that Novak's Notice of Voluntary Dismissal as to Google was without prejudice;

3. On February 18, 2005, Google filed a request for a pre-motion conference in advance of a motion for reconsideration of the Court's February 16, 2005 order dismissing without prejudice Novak's claims against Google;

4. On March 7, 2005, the Court ordered that Google may file its motion for reconsideration, and a motion for its attorney's fees, and issued a briefing schedule;

5. Google's counterclaims against Novak are still pending in this action;

6. Novak and Google have now reached a confidential agreement regarding the nature of Novak's dismissal as to Google, and disposing of Google's counterclaims in this action;

7. Accordingly, the Court's February 16, 2005 order, that Novak's Notice of Voluntary Dismissal as to Google was without prejudice, should be and is vacated;

8. Pursuant to Fed. R. Civ. P. 41, Novak dismisses, with prejudice, all claims against Google in this action;

9. Pursuant to Fed. R. Civ. P. 41, Google dismisses, without prejudice, all counterclaims against Novak in this action;

10. As the dismissals described in Paragraphs 8 and 9 will resolve all remaining claims and counterclaims in this action, the case should be closed; and

11. The Court's March 7, 2005 order, setting a briefing schedule for Google's motions for reconsideration and attorney's fees, is now moot.

Respectfully submitted,

Dated: March 18, 2005

David H. Kramer (DK 4619)
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Attorneys for Defendant and Counterclaimant Google, Inc.

Dated: March 16, 2005

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Copiague, New York 11726
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Plaintiff and Counter-defendant

SO ORDERED:

Hon. Denis R. Hurley, USDJ

CERTIFICATE OF SERVICE BY FACSIMILE AND MAIL

I, Deborah Grubbs, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of documents for facsimile transmittal and correspondence for mailing with the United States Postal Service. In the ordinary course of business, documents would be transmitted via facsimile, and correspondence would be deposited with the United States Postal Service on this date.

On this date, I served **STIPULATION AND [PROPOSED] ORDER** on each person listed below, by consigning the document(s) to a facsimile operator for transmittal and by placing the document(s) described above in an envelope addressed as indicated below, which I sealed. I placed the envelope(s) for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

ROBERT NOVAK
Plaintiff Pro Se
1550 Sunrise Highway
Copaigue, New York 11726
Facsimile: (631) 789-9340

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on March 18, 2005.

/s/ Deborah Grubbs
Deborah Grubbs